

Minutes
Bar Harbor Planning Board
November 7, 2007

Members present: Kay Stevens-Rosa, Chair; Jennifer Booher, Vice-Chair; Mike Gurtler; Kevin Cochary;

Also present: Anne Krieg, Town Planner; Kris Hultgren, Staff Planner;

I. CALL TO ORDER — 5:34 p.m.

II. EXCUSED ABSENCES

No excused absences.

III. ADOPTION OF THE AGENDA

Mr. Gurtler made a motion to adopt the agenda. Ms. Booher seconded and the Board voted unanimously on the motion.

IV. APPROVAL OF MINUTES

Mr. Gurtler made a motion to approve the minutes from the August 29 and September 5 meetings. Mr. Cochary seconded and the Board voted unanimously on the motion.

V. REGULAR BUSINESS

- A. **Executive Session:** Move to enter into executive session pursuant to 1 M.R.S.A. § 405(6)(E) for consultation with the Board's attorney concerning the Board's legal rights and duties regarding the pending appeal of Cadillac Management Company, LLC (Appeal AB-07-16).

Ms. Krieg summarized the procedure of an Executive Session. She also commented about an objection to the Executive Session by the Bar Harbor Times and read a response to that objection from town attorney Lee Bragg.

The Board discussed whether to enter into Executive Session.

Mr. Ross, representing the applicant, objected to the Board entering into Executive Session to discuss the merits of the case and expressed his disagreement with Mr. Bragg that this appeal represents litigation.

Mr. Gurtler made a motion for the Planning Board to enter into Executive Session pursuant to 1 M.R.S.A. § 405(6)(E) for consultation with the Board's attorney concerning pending litigation and the Board's legal rights and duties regarding the appeal of Cadillac Management Company, LLC (Appeal AB-07-16). Ms. Booher seconded and the Board voted unanimously on the motion. The motion passed 3-0.

The Board discussed the pending litigation and their rights and duties regarding AB-07-16 by conference call with town attorney Lee Bragg.

Mr. Gurtler made a motion to end the Executive Session. Mr. Cochary seconded and the Board voted unanimously on the motion. The motion passed 3-0.

The Board took no action in Executive Session.

B. Completeness Review – SD-06-21 – Mill Brook Hollow

Project Location: 68 Millbrook Road, Bar Harbor Tax Map 229, Lot 23

Applicant: Everett White

Application: Proposes to create a residential subdivision of four lots of varying sizes ranging from approximately 3 to 1.25 acres

Mr. Perry Moore, representing the applicant, updated the Board on the project. This included an overview of a new site plan and survey submitted by Mr. Moore to correct nonconforming road frontage and lot widths of two of the lots in the subdivision. Mr. Moore reviewed a cover letter to the application with the Board that requested additional waivers.

Mr. Gurtler made a motion to grant the waivers requested under 7d, 7i, 12m and 13. Ms. Booher seconded and the Board voted unanimously on the motion.

Ms. Booher made a motion to deem the application complete. Mr. Cochary seconded and the Board voted unanimously on the motion.

The public hearing is set for the December 5, 2007 Planning Board meeting.

VI. OTHER BUSINESS

A. White Deer Woods Approval Transfer

The Board discussed the transfer.

Mr. Gurtler made a motion to approve the transfer of White Deer Woods subdivision to White Deer Investments, LLC. Ms. Booher seconded and the Board voted unanimously on the motion.

B. Northwest Cove Approval Transfer

The Board discussed the transfer.

Mr. Cochary made a motion to approve the transfer of Brian and Michelle Shaw's subdivision at Indian Point to Northwest Cove, LLC and ultimately to Mir, a Maine corporation wholly owned by Brian and Michelle Shaw. Mr. Gurtler seconded and the Board voted unanimously on the motion.

C. Ordinance Review – Planned Unit Developments

Sam Coplon discussed the Planned Unit Development Ordinance and his experience using it during the Northeast Creek housing project. Mr. Coplon explained that the 20% affordable housing allocation is somewhat flawed because an applicant is required by the ordinance to calculate the 20% at full build out. Mr. Coplon went on to say that some projects may not want to build to full build-out. But the way the

ordinance is written the applicant would have to make 20% of the units affordable using the full build out calculation.

Shep Harris, a local developer, talked about his experience in using the PUD ordinance. He is currently considering a project that would require using the ordinance.

Mr. Harris, expressed frustration with the town's implementation of a 75 foot setback to wetland over 2 acres because he argued it takes too much land away from land owners. Mr. Harris used the state standard of a 75 foot setback from wetlands that are 10 acres or more as a comparison.

The Board discussed the development of the PUD ordinance and the process of using it so far. The Board expressed interest in discussing the ordinance in greater detail at a workshop.

D. Wireless Ordinance Draft Discussion

Mr. Hultgren updated the Board on the progress with creating a wireless ordinance. He described the process up to this point and moving forward. The first draft is being circulated to various committees and the feedback received will be used to produce a second draft. He further described an overlay district that would be used to service the town.

Mr. Cochary requested more information on island coverage and including wireless internet service as a requirement for companies siting facilities.

Mr. Gurtler inquired about parts of the draft that may not be necessary. Specifically, Mr. Gurtler asked about the portion of the ordinance that requires the service provider to show its network in the surrounding counties.

Ms. Booher reiterated that it's important that the town receives comprehensive service from any provider.

E. Other LUO Changes

1. Groundwater
2. Shoreland

These issues were tabled until the December meeting.

F. Orchard Ridge Endorsement

The Board approved endorsement

VII. PLANNING DIRECTOR'S REPORT

Ms. Krieg reviewed the 2008 Planning Board meeting schedule with the Board. After discussing the schedule the Board decided not to hold meetings on July 2nd and August 20th. The August 20th date could be used for a workshop if need be.

Mr. Gurtler made a motion to accept the 2008 Planning Board meeting schedule with the agreed upon changes. Ms. Booher seconded and the Board voted unanimously on the motion.

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

IX. ADJOURNMENT - 9:11 PM

Ms. Booher made a motion to adjourn. Mr. Gurtler seconded and the Board voted unanimously on the motion.

Signed as approved:

Kay Stevens-Rosa, Chair
Planning Board, Town of Bar Harbor

Date